

Remarks

The above Amendments and these Remarks are in reply to the Office Action mailed May 23, 2005.

Claims 1-20 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 1-20, and objected to claims 2, 11 and 16 as being of improper dependent form for failing to further limit the subject matter of a previous claim. The present Response amends claims 1-20 and adds claims 21-24 leaving for the Examiner's present consideration claims 1-24. Reconsideration of the rejections and objections is requested.

Claim Objection

Claims 2, 11 and 16 were objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. The applicant has amended claims 2 and 16 such that the objected material is no longer present in the claim. As such only claim 11 which previously depended on claim 6 remains relevant to the present objection. Currently amended Claim 11 now depends on currently amended Claim 8 which in turn depends on currently amended Claim 5. These claims have been amended such that currently amended Claim 11 further limits the subject matter of currently amended Claims 5 and 8. The Applicant respectfully requests that the Examiner reconsider this objection.

Claim Rejection 35 USC 103

Claims 1-11, 19-20 were rejected under 35 USC 103(a) as being unpatentable over US patent 3,764, 692 (hereinafter '692) in view of WO 98/28989 (hereinafter '989).

The Examiner states that "Although '692 teaches weight-loss compositions comprising hydroxycitric acid, sodium or potassium, and calcium, '692 does not teach the same concentrations as set forth in the instant composition." Further, the Examiner states that "[s]ince,

according to '989, the combination of calcium and potassium decreases obesity, one would be motivated to add it to a weight loss composition or formula, such as the one proposed in '692."

The Applicant respectfully disagrees. Firstly, '989 does not teach weight loss. Rather, the '989 shows reduced weight gain in rats when calcium and potassium are added to a rat diet that substantially increases the weight of the rats. This is not weight loss but rather reduced weight gain.

Further, neither the '692 nor the '989 teach or suggest the present invention. Specifically, neither the '692 nor the '989 teach or suggest a composition comprising hydroxycitric acid and 2 or more cations. Nor would one of ordinary skill in the art, at the time of the invention, have considered generating a composition comprising hydroxycitric acid and 2 or more cations given these two teachings.

In contrast, the Applicants have surprisingly found that a composition comprising hydroxycitric acid and 2 cations produces a composition which has desirable properties that are not present with hydroxycitric acid and a single cation. Specifically, the Applicants found that their invention is highly soluble in water while retaining minimal hygroscopicity. The solubility has obvious benefits in terms of formulating and administering the active agent. The minimal hygroscopicity is desirable because the composition doesn't hydrate in air and therefore doesn't degrade or cyclize. The double salt also unexpectedly has attractive food product qualities including neutral taste and color. These findings are totally unexpected based on the prior art. Therefore, one of ordinary skill in the art could not have predicted this desirable and valuable composition and thus the invention is non-obvious.

Claims 12-18 were rejected under 35 USC 103(a) as being unpatentable over '692 in view of US patent 5,536,516 (hereinafter '516).

Claims 12-18 are being prosecuted in a continuation application filed August 22, 2005. As such, the Applicant respectfully requests that the Examiner reconsider this ground for rejection. The Applicant reserves the right to prosecute claims drawn to food products or other inventions based on the current specifications in continuation or divisional applications.

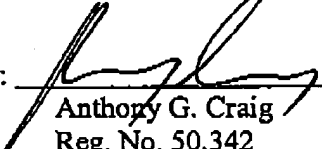
The references cited by the Examiner but not relied upon have been reviewed, but are not believed to render the claims unpatentable, either singly or in combination.

Conclusion

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge the required fees and any underpayment of fees or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Date: 8/22/05

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